

### **REMARKS**

Favorable reconsideration is respectfully requested.

Upon entry of the above amendment, the claims will be 7 and 8.

The above amendment is responsive to points set forth in the Official Action.

With regard to the rejection of claim 7 under 35 U.S.C. § 112 in that it is not clear whether temperature ranges degrees Celsius or Fahrenheit, it is clearly degrees Celsius because temperatures such as 40°F i.e. a few degrees above freezing would clearly be too cold for fermentation of Koji (malted rice).

One of ordinary skill in the art familiar with the relevant literature, including that already of record e.g. reference U (Dom's Culture - Food of Asia) would recognize that fermentation of the type presently recited would not occur at temperatures as cold as 40°F. This reference mentions incubation temperatures such as 42°C.

The specification and claim 7 have been amended to recite that degrees Celsius is employed.

No new matter has been introduced by reciting in the specification and claims that degrees Celsius rather than Fahrenheit is intended since there are only two choices and the choice now recited is the obvious one.

With regard to the term "adding water to Koji made from germinated brown rice" in step a) of claim 7, the feature of claim 10 has been incorporated in claim 7 to clarify what is intended. It is thus clear that water is added to Koji made from a specific germinated brown rice in claim 7.

In claim 8, it is now clear that terminology in issue is "mixing another Amazake made from polished rice".

Claims 7 to 12 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over **coldmountainmiso.com** (hereinafter referred to as CMM) in view of Sato Hisakatsu (JP 2001231501) and North American New Product Report.

Claims 7 to 12 have also been rejected under 35 U.S.C. § 103(a) as being unpatentable over Sato Hisakatsu (JP 2001231501) in view of **coldmountainmiso.com** (hereinafter referred to as CMM) and North American New Product Report.

These rejections are respectfully traversed.

The present claims now recite that the germinated brown rice employed in the present process to make the Koji starting material is germinated brown rice which has been polished to remove only scarfskin while retaining the brown layer and embryo part of the brown rice. By the use of such germinated brown rice, the nutritive bran layer and germination products including minerals remarkably contribute to promotion of health. Further removing scarfskin overcomes the problem that it is difficult to swallow, with scarfskin left in the mouth.

The Official Action recognizes that the prior art does not teach employing brown rice as presently recited, namely, retaining the bran layer and embryo part and removing only scarfskin, but rather teaches employing either polished or brown rice or a mixture thereof. However, in the case of using brown rice, this leaves the scarfskin which, as pointed out above, is difficult to swallow. In the case of using polished rice, the deficiencies are clear from the paragraph bridging pages 1 and 2 of the specification. Thus, none of the prior art teaches removal of the scarfskin of brown rice in the manufacture of Amazake in the absence of applicants' disclosure.

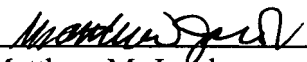
For the foregoing reasons, the rejections on prior art are untenable and should be withdrawn.

No further issues remaining, allowance of this application is respectfully requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact undersigned that the telephone number below.

Respectfully submitted,

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